

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, Postage Prepaid, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below:

Dated: JUNE 28, 2006

Signature

Christine M. Grace  
(Christine Grace)

Docket No.: BSWV-P01-008  
(PATENT)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Patricia Lynne Conway

Application No.: 10/526580

Confirmation No.: N/A

International Filing Date: September 8, 2003

Art Unit: N/A

For: PROBIOTIC BACTERIUM:  
LACTOBACILLUS FERMENTUM

Examiner: Not Yet Assigned

### PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

Sir:

Pursuant to 37 C.F.R. § 1.102(d) and MPEP 708.02, Subsection XII (SPECIAL STATUS FOR APPLICATIONS RELATING TO BIOTECHNOLOGY FILED BY APPLICANTS WHO ARE SMALL ENTITIES), Applicants hereby petition to make special the instant biotechnology application, titled "PROBIOTIC BACTERIUM: LACTOBACILLUS FERMENTUM," filed on March 4, 2005, by Patricia Lynne Conway (Application No. 10/526,580). Applicants request the required petition fee under 37 C.F.R. § 1.17(h) be charged to **Deposit Account No. 18-1945**.

Applicants hereby state that the instant application is assigned to Probiomix Limited (previously known as VRI Biomedical Limited), which is small business concern under 37 C.F.R. § 1.27(a)(2) entitled to claim small entity status.

Applicants further state that the subject of the instant patent application is a major asset of the small entity.

Applicants further state that the development of the technology will be significantly impaired if examination of the instant patent application is delayed, partly because continued venture capital funding of the small entity partly depends on the holding, by the small entity, of strong intellectual property position, including issued patents, in the technology field of the instant application.

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**CONCLUSION**

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to Deposit Account No. 18-1945.

Dated: June 8, 2006

Respectfully submitted,

By 

Z. Angela Guo, Ph.D.

Registration No.: 54,144

Fish & Neave IP Group

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PTO/SB/17p (11-04)  
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FEE</b> <b>Under 37 CFR 1.17(f), (g) &amp; (h)</b> <b>TRANSMITTAL</b> (Fees are subject to annual revision)  Send completed form to: Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	<b>Application Number</b>	10/526,580
	<b>International Filing Date</b>	September 8, 2003
	<b>First Named Inventor</b>	Patricia Lynne Conway
	<b>Art Unit</b>	1615
	<b>Examiner Name</b>	Not Yet Assigned
	<b>Attorney Docket Number</b>	BSWV-P01-008

Enclosed is a petition filed under 37 CFR 1.102(d) that requires a processing fee (37 CFR 1.17(f)), (g), or (h)). Payment of \$ 130.00 is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

**Payment of Fees** (small entity amounts are NOT available for the petition fees).

☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 18-1945 :

☒ Petition fee under 37 CFR 1.17(f), (g) or (h) ☒ Any deficiency of fees and credit of any overpayments

Enclose a duplicative copy of this form for fee processing.

☐ Check in the amount of \$ \_\_\_\_\_ is enclosed.

☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

**Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462**

For petitions filed under:

- § 1.53(e) – to accord a filing date.
- § 1.57(a) – to accord a filing date.
- § 1.182 – for decision on a question not specifically provided for.
- § 1.183 – to suspend the rules.
- § 1.378(e) – for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) – to accord a filing date to an application under § 1.740 for extension of a patent term.

**Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463**

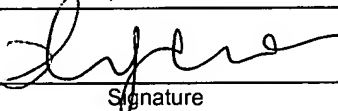
For petitions filed under:

- § 1.12 – for access to an assignment record.
- § 1.14 – for access to an application.
- § 1.47 – for filing by other than all the inventors or a person not the inventor.
- § 1.59 – for expungement of information.
- § 1.103(a) – to suspend action in an application.
- § 1.136(b) – for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 – for review of refusal to publish a statutory invention registration.
- § 1.296 – to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 – for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(c) – for patent owner requests for extension of time in *ex parte* reexamination proceedings.
- § 1.956 – for patent owner requests for extension of time in *inter partes* reexamination proceedings.
- § 5.12 – for expedited handling of a foreign filing license.
- § 5.15 – for changing the scope of a license.
- § 5.25 – for retroactive license.

**Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464**

For petitions filed under:

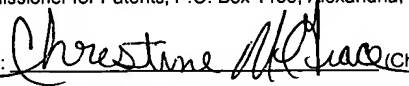
- § 1.19(g) – to request documents in a form other than that provided in this part.
- § 1.84 – for accepting color drawings or photographs.
- § 1.91 – for entry of a model or exhibit.
- § 1.102(d) – to make an application special.
- § 1.138(c) – to expressly abandon an application to avoid publication.
- § 1.313 – to withdraw an application from issue.
- § 1.314 – to defer issuance of a patent.

  
\_\_\_\_\_  
Signature  
  
Z. Angela Guo  
\_\_\_\_\_  
Typed or printed name

June 8, 2006  
\_\_\_\_\_  
Date  
  
54,144  
\_\_\_\_\_  
Registration No., if applicable

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